IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1806 OF 2006

Shri Atulbhai Devchand Patel
and Ors. ...Applicant

V/s

The State
[Through P.I. Bhadrakali
Police Station] ...Respondents.

Mr. R.S. Karnik for the applicant.
Ms. M.H. Mhatre, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 5th May, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for anticipatory bail. The applicant No.1 is the father and the applicant No.2 is the mother of Hitesh. Their son married the complainant Dharati in the month of June, 2003. At the time of the marriage, their son and daugther-in-law were residing in a joint family initially. Initially, relations between their son and their daughter-in-law were very cordial. However, thereafter, there were frequent domestic quarrels between their son and daughter-in-law. Thereafter, their daughter-in-law started going to her parents place at Baroda and she used to reside there for a

long period of time. When the settlement talks were held, their daughter-in-law insisted that she wanted a separate residence and did not want to stay with her in-laws in the joint family. This request was acceded to by the applicant Nos. 1 and 2 and they shifted their son and daughter-in-law to new house. In spite of that the domestic quarrels between the two did not stop.

3. On 14/4/2006, the complainant Dharati came to Nashik from Baroda and went to the house directly where she was residing separately with her husband. On the next day, she complained of illness and she vomitted on 2/3 occasions. She was immediately admitted in the hospital. She informed the doctor that she was having travel sickness and she had brought some tablets from Baroda and she had consumed those tablets. After she was treated in the hospital, she was discharged on 16/4/2006. Thereafter, a complaint was lodged by the complainant Dharati on 21/4/2006, alleging that Hitesh, her husband had administered poison to her and had compelled her to drink liquid at the instance of the present applicants. As can be seen, applicant No.1 is the father, applicant No.2 is the wife of applicant No.1, applicant No.3 and 5 are the uncles and applicants

Nos. 4 and 6 are aunts of Hitesh Patel and applicant Nos. 7 and 8 are sisters of Hitesh Patel who are 22 and 24 years of age.

4. It is submitted by the learned Counsel appearing for the applicants that a false and vexatious complaint has been filed by the complainant. The sequence of events and change in the statements which were made by the complainant itself indicates falsity of the case. It is submitted that, initially, a complaint was lodged that her husband had administered liquid and, thereafter, in the subsequent statement it is stated that the present applicants were also responsible for forcible administration of poison to her. It is an admitted position that the complainant was discharged on the next day and she had not made any complaint about forcible administration of poison to her. On the contrary, she had stated that she had travel sickness and that she had brought some tablets from Baroda from her parents' house which she had consumed. This clearly indicates that the present complaint has been lodged against the present applicants vexatiously and in order to harass and threaten the present applicants. Even otherwise, the offence punishable under section 307 of the Indian Penal Code which is registered against the present

applicants, prima facie, also does not appear to have been made out. The complainant was discharged immediately on the next day. There is no material on record to indicate that what was vomitted by the applicant was a poisonous substance or that there was an attempt to commit murder.

5. The learned APP appearing on behalf of the state candidly pointed out that the Chemical Analyser's report had not been received. There is no certificate issued by the doctor stating that either the life of the complainant was in danger or she suffered any injuries.

6. Under these facts and circumstances of the case, in my view, prima facie case has been made out by the applicants for grant of an anticipatory bail. It is no doubt true that under normal circumstances when an offence is registered under section 307 which prescribes punishment of imprisonment for life, the application for anticipatory bail should not be entertained. However, section 438 has been specifically incorporated in the Statute, keeping in view the fact that the tendency of filing false complaints to settle family dispute, personal scores, political and business rivalry has increased. In the

case of Gurbaksh Singh Sibbia etc. Vs. The State of Punjab reported in **AIR 1980 SC 1632,** it has been held that the anticipatory bail can be granted even in cases where allegations of murder is made or where the offence is punishable with imprisonment for life or death. Thus, there is no impediment in granting or passing an order of anticipatory bail once the Court is prima facie satisfied that no case is made out by the complainant and rather, the false case appears to have been filed against the applicant.

7. In the present case, for the reasons stated hereinabove, in my view, prima facie case is made out by the applicants for grant of anticipatory bail. The applicants, therefore, in the event of their arrest in connection with C.R. No.III of 2006 which is registered at Bhadrakali Police Station, be released on bail in the sum of Rs 5000/- each with one or two sureties in the like amount each. The applicants shall report to the concerned Investigating Officer as and when called. The applicants may be called during the business hours i.e. 11 a.m. and 5.00 p.m. particularly because most of the applicants are women. With these directions, the application is disposed of.

V.M. KANADE, J.